

STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS
Monday September 19, 2016 at 10:00 a.m.
Indiana Government Center-South, Room W064
402 West Washington Street
Indianapolis, Indiana

COMMITTEE MEETINGS

10:00 a.m.

CALL TO ORDER & ESTABLISHMENT OF QUORUM

D. Weisheit called the meeting to order at 1:00 p.m. and established a quorum pursuant to public notice posted at the principal office of the board at least forty-eight (48) hours before the time of the meeting

Board Members Present:

Diane Weisheit, President
Diana Bonn
Gary Odell
Gregory Kenny
Rebecca Bushong

Board Member Absent:

Victoria Ross

State Officials Present:

Tracy Hicks, Board Director, Indiana Professional Licensing Agency
Jennifer Broadbent, Assistant Director, Indiana Professional Licensing Agency
Aaron Kochar, Board Advisory Counsel, Office of the Attorney General

ADOPTION OF THE AGENDA

The agenda was adopted.

R. Bushong/G. O'Dell
5/0/0
Motion carried.

ADOPTION OF THE MINUTES FROM THE JULY 18, 2016 MEETING OF THE STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS

A motion was made and seconded to approve the minutes of the July 18, 2016 meeting.

R. Bushong/G. O'Dell
5/0/0
Motion carried.

ADMINISTRATIVE HEARINGS

A. Administrative Hearing in the Matter of Vaneta Shoulder, SBCBE 16-75

A motion was made and seconded to uphold the board's denial of the application for barber license.

G. Kenny/R. Bushong
5/0/0

Motion carried.

B. Administrative Hearing in the Matter of Chrissy Nichols, BC21401172, SBCBE 14-49

A motion was made and seconded to remove probation.

D. Bonn/R. Bushong
5/0/0
Motion carried.

C. Administrative Appeal Hearing in the Matter of Holly Spa & Nails, MS31003911, SBCBE 14-104

A motion was made and seconded to remove probation.

D. Bonn/ R. Bushong
3/2/0
Motion carried.

D. Administrative Hearing in the Matter of Kristin Soplanda, BC21501464, SBCBE 15-55

A motion was made and seconded to deny the petition for removal of probation.

D. Bonn/R. Bushong
5/0/0
Motion carried.

E. Administrative Show Cause Hearing in the Matter of Allison Corrao, BC20704071, SBCBE 15-99

A motion was made and seconded to remove probation.

D. Bonn/R. Bushong
5/0/0
Motion carried.

F. Administrative Hearing in the Matter of Happy Nails, MS30400737, SBCBE 15-152

A motion was made and seconded that the state proved its case and to place the license on indefinite probation with no right to petition for removal of probation for a period of one year and after an approved inspection, impose a fine of \$100.00 for each of the five violations, impose the \$5.00 fee to the health records and personal identifying information protection trust fund, and impose the costs of the proceedings.

R.Bushong/G. O'Dell
2/3/0
Motion failed.

A motion was made and seconded that the state proved its case and to place the license on indefinite probation with no right to petition for removal of probation for a period of one year and after an approved inspection, impose a fine of \$1000.00 for one count of unlicensed practice, and impose a fine of \$100.00 for each of the four remaining violations, impose the \$5.00 fee to the health records and personal identifying information protection trust fund, and impose the costs of the proceedings.

D. Bonn/G. O'Dell
5/0/0
Motion carried.

G. Administrative Hearing in the Matter of Victor A. Conceptcion, BA10800073 & Allstarz Barbershop & Beauty, BS20800067, SBCBE 16-80

Hearing continued pending action on proposed settlement.

H. Administrative Hearing in the Matter of Hoang-Yen Thi Nguyen, BC20705403 & MA29701894 & Pure Nail & Spa, MS31100065, SBCBE 16-78

A motion was made and seconded that the state proved its case in the matter of Pure Nail & Spa, MS31100065.

D. Bonn/R. Bushong
5/0/0
Motion carried.

A motion was made and seconded to suspend the license indefinitely with no right to petition for reinstatement for a period of one year, pay costs of the proceedings, impose fines in the amount of \$6500.00 to be paid within six months, and impose the \$5.00 fee to the health records and personal identifying information protection trust fund in the matter of Pure Nail & Spa, MS31100065.

R. Bushong/O'Dell
5/0/0
Motion carried.

A motion was made and seconded that the state proved its case in the matter of Hoang-Yen Thi Nguyen, BC20705403 & MA29701894 and to place the license on indefinite probation with no right to petition for removal for a period of one year, pay costs of the proceedings, impose fines in the amount of \$2500.00 to be paid within six months, and impose the \$5.00 fee to the health records and personal identifying information protection trust fund.

D. Bonn/R. Bushong
5/0/0
Motion carried.

I. Administrative Hearing in the Matter of Devin Mosley, BC29900664, and LaShae Brow & Lash Lounge, BS31300074, SBCBE 16-74

A motion was made and seconded to issue a Notice of Proposed Default for failure to appear.

D. Bonn/R. Bushong
5/0/0
Motion carried.

J. Administrative Hearing in the Matter of Spa Nails, MS30801836, SBCBE 15-155

A motion was made and seconded to issue a Default Order.

D. Bonn/R. Bushong
5/0/0
Motion carried.

A motion was made and seconded to place the license on indefinite probation with no right to petition for removal of probation for a period of one year and after an approved inspection, impose a fine of \$1000.00 for each of the four violations to be paid within six months, impose the

\$5.00 fee to the health records and personal identifying information protection trust fund, and impose the costs of the proceedings.

D. Bonn/R. Bushong
5/0/0
Motion carried.

OFFICE OF THE ATTORNEY GENERAL CONSUMER PROTECTION DIVISION REPORT

Written report provided.

CONSIDERATION OF VOLUNTARY SUMMARY SUSPENSION IN THE MATTER OF RODNEY L. BOYD, BA88000058, 2016SBCBE0110

A motion was made and seconded to accept the voluntary summary suspension.

D. Bonn/R. Bushong
5/0/0
Motion carried.

CONSIDERATION OF PROPOSED FINDINGS OF FACTS, CONCLUSIONS OF LAW AND ORDER

A. Main Street Cutz, LLC, BS31300140, SBCBE 16-76

A motion was made and seconded to approve the Proposed Findings of Facts, Conclusions of Law and Order. Diana Bonn abstained because she participated in the settlement conference. The following members, Diana Weisheit, Gary O'Dell, Gregory Kenny, and Dr. Rebecca Bushong, continued to participate in the matter.

R. Bushong/G. O'Dell
4/0/0
Motion carried.

B. Leo Pham, BC21300991, and Aqua Nails, BS91400733, SBCBE 16-69

A motion was made and seconded to approve the Proposed Findings of Facts, Conclusions of Law and Order in the matter. Diana Bonn abstained because she participated in the settlement conference. The following members, Diana Weisheit, Gary O'Dell, Gregory Kenny, and Dr. Rebecca Bushong, continued to participate in the matter.

R. Bushong/G. O'Dell
4/0/0
Motion carried.

C. Victor A. Conceptcion, BA10800073 & Allstarz Barbershop & Beauty, BS20800067, SBCBE 16-80

A motion was made and seconded to approve the Proposed Findings of Facts, Conclusions of Law and Order.

R. Bushong/G. O'Dell
5/0/0
Motion carried.

PERSONAL APPEARANCES AND CONSIDERATION OF APPLICATION FOR LICENSE REINSTATEMENT

IN THE MATTER OF

A. Bronze Bay Tanning Center, TB50800008

A motion was made and seconded to reinstate the license on indefinite probation with no right to petition for removal until the facility passes inspection.

D. Bonn/R. Bushong
5/0/0
Motion carried.

B. Sara Marie Hopkins, BC20909937

A motion was made and seconded to approve reinstatement of the license.

D. Bonn/R. Bushong
5/0/0
Motion carried.

C. Nicole Johnson, BC20501633

A motion was made and seconded to approve reinstatement of the license.

D. Bonn/R. Bushong
5/0/0
Motion carried.

D. Laura Ring, BC20602290

A motion was made and seconded to approve reinstatement of the license. D. Bonn abstained. The following members, Diana Weisheit, Gary O'Dell, Gregory Kenny, and Dr. Rebecca Bushong, continued to participate in the matter.

R. Bushong/G. Kenny
4/0/0
Motion carried.

E. Shanea Salls, BC29901552

A motion was made and seconded to approve reinstatement of the license.

G. Kenny/D. Bonn
5/0/0
Motion carried.

PERSONAL APPEARANCE AND CONSIDERATION OF APPLICATION FOR LICENSE RENEWAL IN THE MATTER OF:

A. Brownsburg Laundry & Tan, TB50100146

A motion was made and seconded to approve renewal of the license on indefinite probation with no right to petition for removal of probation until passing inspection.

D. Bonn/R. Bushong
5/0/0
Motion carried.

B. Hair Performers, TB51300073

A motion was made and seconded to approve renewal of the license on indefinite probation with no right to petition for removal of probation until passing inspection.

D. Bonn/R. Bushong
5/0/0
Motion carried.

C. Larry Cates, BA00146351

A motion was made and seconded to approve renewal of the license.

D. Bonn/R. Bushong
5/0/0
Motion carried.

D. Kenny Nguyen, MA20500353

A motion was made and seconded to deny the application for failure to appear.

D. Bonn/R. Bushong
5/0/0
Motion carried.

E. Danielle St. Clair, BC20400019

A motion was made and seconded to approve renewal of the license on indefinite probation with no right to petition for removal of probation until completion of the criminal matter.

D. Bonn/R. Bushong
5/0/0
Motion carried.

F. Katherine Stewart, BC21201202

A motion was made and seconded to approve renewal of the license.

D. Bonn/R. Bushong
5/0/0
Motion carried.

G. Carl Webb, II, BA10500019

A motion was made and seconded to approve renewal of the license on indefinite probation with no right to petition for removal of probation until release from prison and completion of criminal parole or probation.

R. Bushong\ D. Bonn
5/0/0
Motion carried.

CONSIDERATION OF NOTICE OF PROPOSED DISMISSAL ORDER

A. Keenyn Perry, BA00141393

A motion was made and seconded to dismiss the matter.

D. Bonn/R. Bushong
5/0/0
Motion carried.

READOPTION OF RULES WITHOUT CHANGES IN THE MATTER OF LSA DOCUMENT #16-316, 820 IAC 2; 820 IAC 3; AND 820 IAC 4

The State Board of Cosmetology and Barber Examiners indicated that they have considered the costs and requirements imposed on small businesses pursuant to Ind. Code § 4-22-2.5-3.1(c) as indicated below in the analysis for LSA Document 16-316 and previous analysis for the rules. They further stated that the rules impose these costs and requirements and that they have determined that there is no reasonable alternative for the rules. A motion was made and seconded to proceed with submitting the final rule document to the Indiana Register. Below is a summary of those finding for each rule included in this rule readoption:

D. Bonn/R. Bushong
5/0/0
Motion carried.

820 IAC 2 This rule establishes licensing requirements for beauty culture professionals, beauty culture salons, and beauty culture schools.

(1) Continued need for the rule: This rule is necessary to establish license requirements for beauty culture professionals, beauty culture salons, and beauty culture schools.

(2) Nature of complaints or comments received from the public or small businesses concerning the rule or its implementation by the agency: No complaints have been received.

(3) The complexity of the rule, including any difficulties encountered by the agency in administering the rule or small businesses in complying with the rule: There is no difficulty in administering or complying with this rule.

(4) The extent to which the rule duplicates or conflicts with other federal, state, or local laws, rules, regulations, or ordinances: This rule does not duplicate or conflict with other federal, state, or local laws, rules, regulations, or ordinances.

(5) The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time: The rule was last reviewed in 2010. It is the agency's position that the rule in its current version is well suited for the purpose of determining license requirements. There has been no change to technology, economic conditions, or other factors affecting this rule since it was last reviewed.

820 IAC 3 This rule established sanitary and equipment requirements for beauty culture salons and schools

(1) Continued need for the rule: This rule is necessary to ensure consumer protection from unsanitary facilities.

(2) Nature of complaints or comments received from the public or small businesses concerning the rule or its implementation by the agency: We have not received complaints with regard to the agency's implementation of this rule.

(3) The complexity of the rule, including any difficulties encountered by the agency in administering the rule or small businesses in complying with the rule: There is no difficulty in administering or complying with this rule.

(4) The extent to which the rule duplicates or conflicts with other federal, state, or local laws, rules, regulations, or ordinances: This rule does not duplicate or conflict with other federal, state, or local laws, rules, regulations, or ordinances.

(5) The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time: The rule was last reviewed in 2010. There has been no change to technology, economic conditions, or other factors affecting this rule since it was last reviewed.

820 IAC 4 This rule establishes general requirements for beauty culture schools.

(1) *Continued need for the rule:* This rule is important to provide beauty culture schools with operational guidelines for students and record retention and reporting.

(2) *Nature of complaints or comments received from the public or small businesses concerning the rule or its implementation by the agency:* The agency has not received any complaints regarding this rule.

(3) *The complexity of the rule, including any difficulties encountered by the agency in administering the rule or small businesses in complying with the rule:* The agency has not encountered difficulty in administering this rule.

(4) *The extent to which the rule duplicates or conflicts with other federal, state, or local laws, rules, regulations, or ordinances:* This rule does not duplicate or conflict with other federal, state, or local laws, rules, regulations, or ordinances.

(5) *The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time:* This rule was last reviewed in 2010. Advancement in technology has made it easier to comply with this rule.

CONSIDERATION OF ADMINISTRATIVE LAW JUDGE'S ORDERS

A. Sang T. Ho, SBCBE 16-73

A motion was made and seconded to affirm the Administrative Law Judge's Order. D. Weisheit abstained because she participated as the Administrative Law Judge in the administrative proceeding. The following members, Diana Bonn, Gary O'Dell, Gregory Kenny, and Dr. Rebecca Bushong, continued to participate in the matter.

R. Bushong/G. O'Dell

4/0/0

Motion carried.

B. Hoa Thi Ngoc Luong, SBCBE 16-71

A motion was made and seconded to affirm the Administrative Law Judge's Order. D. Weisheit abstained because she participated as the Administrative Law Judge in the administrative proceeding. The following members, Diana Bonn, Gary O'Dell, Gregory Kenny, and Dr. Rebecca Bushong, continued to participate in the matter.

R. Bushong/G. O'Dell

4/0/0

Motion carried.

REQUEST FOR WAIVER OF 820 IAC 2-2-3 OR 820 IAC 8-2-20, PASSING THE EXAMINATION WITHIN THREE YEARS OF GRADUATION

A. Shaquita Joyner

A motion was made and seconded to deny the request and prohibit any further requests due to the fact that the board has granted two previous waiver requests.

R. Bushong/D. Bonn

5/0/0

Motion carried.

B. Victoria Smith

A motion was made and seconded to approve the request and allow her one year to pass the examination.

R. Bushong/D. Bonn

5/0/0

Motion carried.

C. Courtney Bowers

A motion was made and seconded to approve the request and allow her one year to pass the examination.

R. Bushong/D. Bonn

5/0/0

Motion carried.

CONSIDERATION OF PROPOSED RULE DRAFT

A Motion was made and seconded to approve the draft and move forward with promulgation. G. Kenny did not vote.

G. O'Dell\ D. Bonn

4/0/0

Motion carried.

DISCUSSION REGARDING SPRAY TANNING

A Motion was made and seconded that spray tanning is not considered the practice of beauty culture.

D. Bonn/R. Bushong

5/0/0

Motion carried.

DISCUSSION OF BEAUTY CULTURE SCHOOL LICENSE REQUIREMENTS FOR SCHOOLS OFFERING BARBER COURSES ONLY

The board discussed the matter and felt that 3000 square feet is the minimum size a beauty culture school should have to apply for a license unless there are extenuating circumstances, such as a school in a prison.

APPLICATION COMMITTEE REPORT

A motion was made and seconded to accept the application committee report as follows.

D. Bonn/R. Bushong

5/0/0

Motion carried.

COSMETOLOGY

A. By Examination

Bailey, Donald Rando! Approved on PROBATION with no right to petition for withdrawal of probation until successful completion of criminal obligations.

Bennett, Katrina: Approved on PROBATION with no right to petition for withdrawal of probation until successful completion of criminal obligations.

Colon, Tessa Marie: Approved on PROBATION with no right to petition for withdrawal of probation until successful completion of criminal obligations.

Love-Thompson, Daniel: Approved on PROBATION with no right to petition for withdrawal of probation until successful completion of criminal obligations.

Mauck, Tasha L.: Approved on PROBATION with no right to petition for withdrawal of probation until successful completion of criminal obligations.

Moore, Niyoka: APPROVED; has one year to take and pass the written exam.

Motsch, Bonnie J.: Approved on PROBATION with no right to petition for withdrawal of probation until successful completion of criminal obligations.

Powers, Stephanie: Approved on PROBATION with no right to petition for withdrawal of probation until successful completion of criminal obligations.

Richards, Tamera J.: Approved on PROBATION with no right to petition for withdrawal of probation until successful completion of criminal obligations.

Richardson, Mary: Approved on PROBATION with no right to petition for withdrawal of probation until successful completion of criminal obligations.

Singh, Gurleen K.: Denied; failure to meet IC 25-8-4-7. Did not attend an Indiana beauty culture school.

Tackett, Mary: Approved on PROBATION with no right to petition for withdrawal of probation until successful completion of criminal obligations.

Taylor, Stephanie: Approved on PROBATION with no right to petition for withdrawal of probation until successful completion of criminal obligations.

Thomas, Jacklyn: Approved on PROBATION with no right to petition for withdrawal of probation until successful completion of criminal obligations.

B. Reciprocity

Abdelsayed, Tamer Gergis: Denied, IC 25-8-4-2(a)(2), not substantially equivalent.

Acosta, Sandy M.: Denied, IC 25-8-4-2(a)(2), not substantially equivalent.

Allgood, Sandi: APPROVED; pending certification from Alabama.

Auxier, Rachael L.: APPROVED; pending name verification.

Ireta, Melissa: Denied, IC 25-8-4-2(a)(1), no valid license.

Kha, Boi Boi: Tabled, pending transcripts.

Mallea Blanco, Yadiel: Denied, IC 25-1-11-5(b), possible fraud.

Manning, Susan: Denied, IC 25-8-4-2(a)(1), no valid license.

Ngo, Thao Le: Denied, IC 25-8-4-2(a)(1), no valid license.

Nguyen, Ngoc T: Denied, IC 25-1-11-5(b), possible fraud.

Robb, Amber: APPROVED.

Teno, Kyle: APPROVED.

Toan, Hong H.: Denied, IC 25-8-4-2(a)(2), not substantially equivalent.

C. Provisional

Kaur, Gupreet: Denied, IC 25-1-11-5(b), possible fraud and IC 25-1-11-19(b) for unlicensed practice.

Martinez Roman, Janiris: APPROVED.

Medina, Jose R.: Denied, IC 25-1-11-5(b), possible fraud.

ESTHETICIAN

A. By Examination

Hogan, Erica Elaine: Approved on PROBATION with no right to petition for withdrawal of probation until successful completion of criminal obligations.

Stofko, Nancy Z.: Approved on PROBATION with no right to petition for withdrawal of probation until successful completion of criminal obligations.

B. By Reciprocity

Nguyen, Oanh Kim: Denied, IC 25-8-4-2(a)(2), not substantially equivalent.

C. Provisional

Pham, Thi Hong Xuan: Denied, IC 25-1-11-5(b), possible fraud.

MANICURIST

A. By Examination

Nguyen, Chau Thi A: Denied, IC 25-1-11-5(b), possible fraud.

Nguyen, The: Denied, IC 25-1-11-5(b), possible fraud.

B. By Reciprocity

Bui, Quang Duy: Denied, IC 25-8-4-2(a)(2), not substantially equivalent.

Edwards, Christine: Denied, IC 25-8-4-2(a)(2), not substantially equivalent.

Ho, Yen T.: Denied, IC 25-8-4-2(a)(1), no valid license.

Nguyen, Lisa: Denied, IC 25-8-4-2(a)(2), not substantially equivalent.

Nguyen, Ngan Kim: Denied, IC 25-8-4-2(a)(2), not substantially equivalent.

Nguyen, Tham Ngoc: APPROVED.

Nguyen, Tuan A.: Denied, IC 25-8-4-2(a)(2), not substantially equivalent.

C. Provisional

Nguyen, Duyen Thi Hong: Denied, IC 25-8-11-8 for insufficient training.

Nguyen, Hien Thi Kim: Denied, IC 25-8-11-8 for insufficient training.

Nguyen, Ngan Thi Kim: Denied, IC 25-8-11-8 for insufficient training and IC 25-8-11-4 is not 18 years of age.

Nguyen, Thi Minh Trinh: Denied, IC 25-8-11-8 for insufficient training.

Pham, Thi Hong Xuan: Denied, IC 25-1-11-5(b), possible fraud.

BARBER

A. By Examination

Brotherton, David: APPROVED.

Owens, Antoinette: APPROVED.

Pipkin, Stephen: APPROVED.

Wilkes, Brohney: Approved on PROBATION with no right to petition for withdrawal of probation until successful completion of criminal obligations.

B. By Reciprocity

Mallea Blanco, Yadiel: Denied, IC 25-8-4-2(a)(2), not substantially equivalent.

FACILITY APPLICATIONS

A. Beauty Culture School

Expressions Beauty School, 2015 Western Avenue, Suite 301 & 340, South Bend, IN 46619: Tabled, further review of floor plan.

B. Beauty Culture Salon

Best Nail Spa, 906 Erskine Plaza, South Bend, IN 46614: APPROVED; pending inspection.

Luxury Nails, 1251 US 31 North #92, Greenwood, IN 46142: Tabled; pending personal appearance.

NT Nails Spa, 1907 South Heaton Street, Knox, IN 46534: Denied, IC 25-1-11-5(b), possible fraud.

Serious Beauty 317, 8553 Bash Street, Suite 103, Indianapolis, IN 46250: Approved on PROBATION with no right to petition for withdrawal of probation until successful completion of criminal obligations.

Vegas Nails & Spa, 1221 North Madison Avenue, Greenwood, IN 46142: Tabled; pending personal appearance.

Westside Clippers, 301 West Commercial Avenue, Lowell, IN 46356: Approved on PROBATION with no right to petition for withdrawal of probation until successful completion of criminal obligations.

C. Mobile Salon

Dolce Vita Spa, 3912 South Meeker Avenue, Muncie, IN 47302: Denied, unlicensed practice IC 25-1-11-19(b).

ADJOURNMENT

A motion was made and seconded to adjourn at 7:28 pm.

D. Bonn/G. O'Dell

5/0/0

Motion carried.